

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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| IN RE: ROUNDUP PRODUCTS LIABILITY LITIGATION | MDL No. 2741 Case No. 16-md-02741-VC |
| This document relates to: <i>Levy v. Monsanto Co.</i> , Case No. 3:21-cv-07643-VC | PRETRIAL ORDER NO. 329: ORDER DENYING MONSANTO’S MOTION TO EXCLUDE EXPERT FRANK LOVECCHIO AND FOR SUMMARY JUDGMENT Re: Dkt. No. 20082 |

Monsanto’s motion to exclude the testimony of Dr. Frank LoVecchio is denied. This ruling assumes the reader’s familiarity with the facts, the applicable legal standard, the prior Daubert rulings in this MDL, and the arguments made by the parties. *See generally In re Roundup Products Liability Litigation*, 390 F. Supp. 3d 1102 (N.D. Cal. 2018) (Pretrial Order No. 45, Dkt. No. 1596); *In re Roundup Products Liability Litigation*, 358 F. Supp. 3d 956 (N.D. Cal. 2019) (Pretrial Order No. 85, Dkt. No. 2799); *Hardeman v. Monsanto Company*, 997 F.3d 941 (9th Cir. 2021).

Monsanto’s motion is denied as to whether LoVecchio appropriately “ruled in” Roundup or calculated the plaintiff’s exposure. *See* Pretrial Order No. 290 (Dkt. No. 18320). The same is true for its arguments about how LoVecchio dealt with naturally occurring genetic mutations. *See* Pretrial Order No. 323 (Dkt. No. 20400) at 5.

That leaves Monsanto’s arguments around five risk factors that it argues LoVecchio did not reliably rule out: age, gender, ethnicity, weight, and cancer history. LoVecchio agreed that Levy’s age, gender, and ethnicity are associated with NHL but testified that the association does

not mean they cause NHL. *See* LoVecchio Dep. (Dkt. No. 20082-3) at 77:21–78:21, 83:25–14. The Court considered and rejected a similar rationale given to “rule out” certain other risk factors in Pretrial Order No. 322 (Dkt. No. 20398) at 4. But unlike there, LoVecchio’s explanation actually makes some sense for these demographic risk factors. And, more importantly, LoVecchio doesn’t try to casually disregard every risk factor for only having correlative support or contradict himself about correlative evidence relating to Roundup and non-Roundup risk factors. On weight, Monsanto has not presented evidence that Levy was obese, so LoVecchio’s testimony on the subject does not render his opinion unreliable. Regarding cancer history, LoVecchio’s discussion of Levy’s mother’s breast cancer at deposition appears to be at least somewhat based in the literature, which Monsanto has not presented evidence to contradict. *See* LoVecchio Dep. at 82:1 –83:2. Therefore, Monsanto’s motion is denied as to these factors as well.

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As the plaintiff will be able to call LoVecchio to opine on specific causation, Monsanto’s motion for summary is denied.

IT IS SO ORDERED.

Dated: March 31, 2025



VINCE CHHABRIA
United States District Judge